

House File 452 - Introduced

HOUSE FILE 452

BY HUNTER

A BILL FOR

1 An Act requiring certain peace officers, including tribal law
2 enforcement officers, to wear a body camera and providing
3 remedies.

4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. Section 22.7, subsection 5, Code 2015, is amended
2 to read as follows:

3 5. Peace officers' investigative reports, and specific
4 portions of electronic mail and telephone billing records of
5 law enforcement agencies if that information is part of an
6 ongoing investigation, except where disclosure is authorized
7 elsewhere in this Code. However, the date, time, specific
8 location, and immediate facts and circumstances surrounding a
9 crime or incident shall not be kept confidential under this
10 section, except in those unusual circumstances where disclosure
11 would plainly and seriously jeopardize an investigation or pose
12 a clear and present danger to the safety of an individual.
13 Specific portions of electronic mail and telephone billing
14 records may only be kept confidential under this subsection if
15 the length of time prescribed for commencement of prosecution
16 or the finding of an indictment or information under the
17 statute of limitations applicable to the crime that is under
18 investigation has not expired. The contents of a body camera
19 recording shall be kept confidential and the release of the
20 contents of such a recording shall be governed by section
21 80C.1.

22 Sec. 2. NEW SECTION. 80C.1 Peace officer body cameras —
23 requirement — confidentiality.

24 1. As used in this section unless the context otherwise
25 requires:

26 a. "Agency" means a law enforcement agency.

27 b. "Body camera" means an electronic device that is capable
28 of recording video and audio data or capable of transmitting
29 video and audio data to be recorded remotely, and is worn on
30 the person of a peace officer, which includes being attached to
31 the officer's clothing or worn on glasses.

32 c. "Peace officer" means a peace officer defined in section
33 801.4, subsection 11, paragraphs "a", "b", "c", "f", "g",
34 "h", and "i". "Peace officer" also includes a certified law
35 enforcement officer under section 80B.18.

1 2. A peace officer shall wear a body camera at all times
2 while on duty and in uniform and shall record using the camera
3 all interactions with people in the performance of the official
4 duties of the peace officer from the beginning to the end of
5 those interactions.

6 3. A body camera shall be worn on the chest or at the eye
7 level of the peace officer.

8 4. A body camera shall not contain facial recognition
9 technology unless the use of such technology has been
10 authorized by the court pursuant to an arrest warrant or a
11 search warrant.

12 5. A peace officer shall inform a person when that person
13 is being recorded by a body camera unless informing the person
14 would be unsafe, impractical, or impossible.

15 *a.* If a peace officer wearing a body camera enters a
16 residence without a warrant or where no exigent circumstances
17 exist, the peace officer shall immediately ask whether the
18 resident desires the peace officer to stop the body camera
19 recording while the peace officer is in the residence. If the
20 resident responds in the affirmative, the peace officer shall
21 stop the body camera recording. The peace officer shall record
22 the question required by this paragraph and any answer to the
23 question.

24 *b.* If a peace officer wearing a body camera interacts with
25 a person reporting a crime, providing information regarding
26 a crime or ongoing investigation, or claiming to be a victim
27 of a crime, the peace officer shall immediately ask whether
28 the person desires the peace officer to stop the body camera
29 recording of the interaction. If the person responds in the
30 affirmative, the peace officer shall stop the body camera
31 recording. The peace officer shall record the question
32 required by this paragraph and any answer to the question.

33 6. *a.* Except as otherwise provided in this subsection, an
34 agency shall retain the contents of a recording created by a
35 body camera for thirty days.

1 *b.* An agency shall retain the contents of a recording
2 created by a body camera for three years if any of the
3 following apply:

4 (1) The recording depicts an incident involving the use of
5 force.

6 (2) The recording depicts an incident that leads to
7 detention or arrest of a person.

8 (3) The recording is relevant to a formal or informal
9 complaint against a peace officer or agency.

10 (4) A request regarding the recording has been made pursuant
11 to paragraph "e".

12 *c.* If the contents of a recording created by a body camera
13 may be used in a criminal prosecution, the agency shall retain
14 the contents of such recording in the same manner as other
15 evidence in the criminal prosecution and the time period to
16 retain the contents of the recording under paragraph "a" or "b"
17 shall be extended to equal the time period for the retention of
18 other evidence that may be use in the criminal prosecution.

19 *d.* An agency shall post on the public internet site of the
20 agency its policies relating to the retention of recordings
21 created by body cameras, requests for the retention of the
22 recordings, and requests for copies of such recordings.

23 *e.* (1) A person described in subparagraph (3) may request
24 that the contents of a recording created by a body camera be
25 retained by the agency for three years. Such a person is not
26 required to file a complaint or the contents of the recording
27 are not required to be part of an investigation in order for a
28 person to make a request under this paragraph.

29 (2) A person described in subparagraph (3) may view and make
30 a copy of the contents of a recording created by a body camera.
31 The agency retaining the contents of the recording shall
32 provide such a person with a copy of the requested recording.

33 (3) Any of the following persons may make a request that the
34 contents of a recording created by a body camera be retained
35 under paragraph "b":

1 (a) A person who is part of the content of the recording.

2 (b) A person whose property has been seized or damaged in
3 relation to, or is otherwise involved with, a crime that is
4 related to the recording.

5 (c) A parent or legal guardian of a person described in
6 subparagraph division (a) or (b).

7 (d) An attorney for a person described in subparagraph
8 division (a) or (b).

9 (e) Any other person if the person described in subparagraph
10 division (a) or (b) has given written authority to the agency
11 to disclose the contents of the recording to the other person.

12 *f.* A person, who is not a part of the content of a recording
13 created by a body camera, may request a copy of such recording
14 if each person who is part of the content of such a recording
15 consents in writing. If consent is obtained, the agency shall
16 provide the requesting person with a copy of the contents of
17 such a recording.

18 *g.* Prior to deleting or disposing of the contents of a
19 recording created by a body camera, the person who has the
20 responsibility of deleting or disposing of such a recording on
21 behalf of the agency, shall review all applicable and available
22 records, files, and databases to ascertain whether any reason
23 exists that the recording should not be deleted or disposed of
24 under this section or under the policies of the agency. The
25 contents of such a recording shall not be deleted or disposed
26 of if such a reason exists.

27 7. A peace officer who fails to record any interaction as
28 required by this section or who fails to stop recording an
29 interaction as required by this section shall be considered
30 to have committed a violation of this section. For a first
31 violation a peace officer shall be given a written reprimand.
32 For a second or subsequent violation the peace officer shall
33 be suspended until an investigation into the cause of the
34 violation has been completed.

35 8. If an agency is unable to produce a body camera recording

1 during a criminal prosecution or civil action which is required
2 to be made and retained pursuant to this section, a rebuttable
3 presumption arises that the recording would corroborate the
4 version of the facts advanced by the defendant in the criminal
5 action or the party opposing the peace officer or agency in the
6 civil action.

7 9. The agency shall participate in any existing state or
8 federal programs that fund or supplement the costs to purchase
9 and maintain body cameras worn by peace officers.

10 Sec. 3. IMPLEMENTATION OF ACT. Section 25B.2, subsection
11 3, shall not apply to this Act.

12 EXPLANATION

13 The inclusion of this explanation does not constitute agreement with
14 the explanation's substance by the members of the general assembly.

15 This bill requires certain peace officers, including tribal
16 law enforcement officers, to wear a body camera.

17 The bill defines "agency" to mean a law enforcement agency.

18 The bill defines "body camera" to mean an electronic device
19 that is capable of recording video and audio data or capable of
20 transmitting video and audio data to be recorded remotely, and
21 is worn on the person of a peace officer.

22 The body camera requirement applies to a county sheriff
23 or deputy sheriff, city peace officer, peace officer member
24 of the department of public safety, peace officer at a
25 regents institution, conservation officer, an employee of the
26 department of transportation designated as a peace officer,
27 an employee of an aviation authority designated as a peace
28 officer, and a certified tribal law enforcement officer.

29 The bill requires a peace officer to wear a body camera
30 at all times while on duty and in uniform. The bill further
31 requires that the peace officer record all interactions with
32 people in the performance of the official duties of the peace
33 officer from the beginning to the end of those interactions.

34 The bill specifies that a body camera must be worn on the
35 chest or at the eye level of the peace officer.

1 The bill prohibits a body camera from containing facial
2 recognition technology unless the use of such technology has
3 been authorized by the court pursuant to an arrest or search
4 warrant.

5 The bill requires a peace officer to inform a person when
6 that person is being recorded by a body camera unless informing
7 the person would be unsafe, impractical, or impossible.

8 If a peace officer who is wearing a body camera enters a
9 residence without a warrant or where no exigent circumstances
10 exist, the bill requires that the peace officer immediately ask
11 whether the resident desires the peace officer to stop the body
12 camera recording while the peace officer is in the residence.
13 If the person responds in the affirmative, the bill requires
14 the peace officer to stop the body camera recording. The bill
15 also requires the peace officer to record the question and any
16 answer to the question.

17 If a peace officer wearing a body camera interacts with a
18 person reporting a crime, providing information regarding a
19 crime or ongoing investigation, or claiming to be a victim of a
20 crime, the bill requires the peace officer to immediately ask
21 whether the person desires the peace officer to stop the body
22 camera recording of the interaction. If the person responds in
23 the affirmative, the bill requires the peace officer to stop
24 the body camera recording. The bill also requires the peace
25 officer to record the question and any answer to the question.

26 The contents of a recording created by a body camera are
27 confidential except as provided for in the bill.

28 The bill requires that an agency shall retain the contents
29 of a recording created by a body camera for 30 days. However,
30 an agency shall retain the contents of a recording created by
31 a body camera for three years if any of the following apply:
32 the recording depicts an incident involving the use of force;
33 the recording depicts an incident that leads to detention or
34 arrest of a person; the recording is relevant to a formal
35 or informal complaint against a peace officer or agency; or

1 a request has been made to retain the recording. Under the
2 bill, the contents of the recording may be retained even longer
3 than three years if the contents may be relevant to a criminal
4 prosecution.

5 Any of the following persons may make a request that the
6 contents of a recording created by a body camera be retained
7 for three years: a person who is a part of the content of the
8 recording; a person whose property has been seized or damaged
9 in relation to, or is otherwise involved with, a crime that is
10 related to the recording; a parent or guardian of a person who
11 is part of the content of the recording or whose property was
12 seized, damaged, or involved with a crime that is related to
13 the recording; the attorney for a person who is part of the
14 content of the recording or whose property was seized, damaged,
15 or involved with a crime that is related to the recording; any
16 other person if such person has been given written authority
17 to disclose the contents of the recording by the person who
18 is part of the content of the recording or whose property was
19 seized or damaged.

20 The bill provides that a person, who is not a part of the
21 content of a recording created by a body camera, may request a
22 copy of and receive such recording if each person who is part
23 of the content of the recording consents in writing.

24 Prior to deleting or disposing of the contents of a recording
25 created by a body camera, the bill requires the person who has
26 the responsibility of deleting or disposing of such a recording
27 on behalf of the agency, to review all applicable and available
28 records, files, and databases to ascertain whether any reason
29 exists that the recording should not be disposed of or deleted.

30 A peace officer who fails to record any interaction with
31 a person or who fails to stop recording such interaction
32 as required by the bill commits a violation. For a first
33 violation of the bill a peace officer shall be given a written
34 reprimand. For a second or subsequent violation of the bill
35 the peace officer shall be suspended until an investigation

1 into the cause of the violation has been completed.

2 The bill also provides that if an agency is unable to produce
3 a body camera recording during a criminal prosecution or civil
4 action, a rebuttable presumption arises that the recording
5 would corroborate the version of the facts advanced by the
6 defendant in the criminal action or the party opposing the
7 peace officer or agency in the civil action.

8 The bill specifies that an agency shall participate in any
9 existing state or federal programs that fund or supplement
10 the costs to purchase and maintain body cameras worn by peace
11 officers.

12 The bill may include a state mandate as defined in Code
13 section 25B.3. The bill makes inapplicable Code section 25B.2,
14 subsection 3, which would relieve a political subdivision from
15 complying with a state mandate if funding for the cost of
16 the state mandate is not provided or specified. Therefore,
17 political subdivisions are required to comply with any state
18 mandate included in the bill.